

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Nadler Holding Co., Ltd.

Case Number 94-02197

Name of Respondents

Greenway Capital Corporation
Mayer Amsel

REPRESENTATION

For Claimant Nadler Holding Co., Ltd. ("claimant") appeared Bruce S. Schaeffer, Esq., New York City, New York.

For Respondent Greenway Capital Corporation ("Greenway") appeared Ruthann Niosi, Esq., New York City, New York.

For Respondent Mayer Amsel ("Amsel") appeared Robert Seaman, Esq., New York City, New York.

CASE INFORMATION

The Statement of Claim was filed on June 7, 1994. Claimant's Submission Agreement was signed on June 7, 1994 by Joseph Nadler ("Nadler"), President of Nadler Holding Co., Ltd.

Respondent Greenway's Statement of Answer was filed on November 8, 1994. Respondent Greenway's Submission Agreement was signed on November 21, 1994 by Jeanne Hernandez, Vice President of Greenway Capital Corporation.

Respondent Mayer Amsel's Statement of Answer was filed on November 4, 1994. Respondent Amsel's Submission Agreement was signed on November 2, 1994.

HEARING INFORMATION

Pre-Hearing Conference:	April 17, 1995	-	One Session
	July 12, 1995	-	One Session
Hearing Dates/ Sessions:	October 16, 1995	-	Two Sessions

The hearing was held at the Hyatt Hotel located in Buffalo, New York.

Case Summary

Claimant allegedly opened an account with the respondents in June of 1993. Shortly thereafter, on October 2, 1993, claimant allegedly instructed respondent Amsel to sell 10,000 common shares of claimant's holding in Impression Delivery Corporation ("IDCH") at or about \$3 per share. Respondent Amsel allegedly confirmed to the claimant that such shares had been sold at \$3 per share. A representative of the claimant allegedly called respondent Amsel to seek confirmation of the sale. Respondent Amsel allegedly assured claimant's representative that the sale would appear on the next monthly account statement. Claimant alleged that, notwithstanding respondents' continued assurances, no confirmation of the sale was ever received by claimant nor was payment for the subject shares made.

Further, claimant alleged that on February 2, 1994, claimant's authorized representative called to speak to respondent Amsel who was allegedly not in the office on that day. Claimant spoke with and instructed another Greenway Capital Corporation employee to sell 4,000 shares in Vertex Industries ("VETX") at bid which was at that time, 12 1/4. In an effort to confirm the trade, claimant's authorized representative called respondent Amsel's office and was advised that respondent Amsel was in fact in the office and had chosen not to process the order. Subsequently, claimant's representative advised respondent Greenway Capital's compliance officer of the events that had taken place with regard to claimant's account. The compliance officer for Greenway allegedly assured claimant that the account would be "reconciled". Notwithstanding this commitment, respondents allegedly advised claimant on or about March 10, 1994 that Greenway Capital Corporation did not intend to honor its earlier commitment to reconcile the account.

Respondent Greenway denied the allegations of wrongdoing asserted by claimant in its statement of claim. Respondent Greenway denied that it ever received any sell orders from claimant. Further, respondents maintained that claimant did not rely upon any information provided by respondents in connection with making any investment decisions. Respondent Greenway maintained that with respect to the "IDCH" transaction there was no sell order placed for it to confirm. Also, respondent Greenway maintained that claimant purchased its position in Vertex, an emerging new company that had a unique computer software product, on the recommendation of a friend of Joseph Nadler, and not the respondents. Lastly, Respondent Greenway maintained that its supervisory procedures prevent such violations as those alleged by claimant.

As affirmative defenses, respondent Greenway maintained that the Statement of Claim failed to state a cause of action as a matter of law and fact as to common law fraud, breach of fiduciary duty or failure to supervise; that claimant's demand for damages is speculative and not supported by any evidence; that claimant's damages arose out of such risks incident to investing in the securities market; that claimant failed to mitigate its damages; that claimant ratified the trading which occurred in its account and cannot now seek to repudiate its account and account activity at Greenway; and that claimant could not cover attorneys fees or punitive damages in arbitration under New York laws.

Respondent Amsel also denied all allegations of wrongdoing as asserted by claimant in its statement of claim. Respondent Amsel maintained that the stock positions in both Vertex and IDCH were acquired by claimant in unsolicited transactions and that, in fact, claimant allegedly opened an account with Greenway in order to purchase Vertex. Claimant allegedly appeared to vacillate with regard to its stockholdings.

Respondent Amsel maintained that he never represented to claimant that the sales that it claims to have requested had been made; that he attempted to sell the 10,000 shares of IDCH owned by claimant at or about the \$3 price but was unable to find buyers to effect the transaction; and that he informed Nadler that he hoped the sale could soon be made and the sale would then appear on claimant's monthly statement.

Respondent Amsel further maintained that claimant did place an order to sell 4,000 shares of Vertex; that he received the order when he returned to the office later that day; and that before respondent Amsel could execute the order, Nadler phoned again and was advised that the Vertex stock was trading at a higher price to which Nadler allegedly responded that he was glad the stock had not been sold. Respondent Amsel maintained that it was not until ten days later, after the Vertex stock price dropped precipitously, that Nadler began to complain that the Vertex stock should have been sold.

RELIEF REQUESTED

As a result of the alleged breach by the respondents of their contractual duty to the claimant and their breach of NASDAQ rules and regulations, the claimant claimed damages as follows: (a) for failure to process the claimant's sell order in IDCH claimant requested \$23,750.00 which represented the difference between the value of the stock on the date the sell order was placed and the value on the date of the filing of the claim; (b) for failure to process the claimant's sell order in VETX claimant requested \$28,500.00 which represented the difference between the value of the stock on the date the sell order was placed and the value on the date of the filing of the claim; (c) punitive damages as a result of the respondents' wilful and intentional actions causing damages to the claimant in the amount of \$47,000.00; (d) interest thereon at such rate as is allowed from the relevant settlement dates; and (e) the claimant's costs and legal fees and disbursements incurred in the prosecution of this arbitration.

Respondent Greenway Capital requested: (a) that the claims against it be dismissed in their entirety; (b) that should the panel find against any of the respondents, the award be specifically

apportioned among the respondents; and (c) that the costs of the hearing not be held against respondent Greenway.

Respondent Amsel requested that the statement of claim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Amsel requested an adjournment of the hearing scheduled for October 16, 1995 on the grounds that the hearing date conflicted with a religious holiday. The panel denied Mr. Amsel's request to adjourn the hearing. The panel determined to deny the hearing because Mr. Amsel had previously requested that two other scheduled hearings, April 17, 1995 and June 5, 1995, be adjourned for the same reason. In an effort to schedule the hearing for dates that were convenient for all parties, their counsel, and their witnesses a telephonic conference was held on July 12, 1995 in which the panel and all counsel of record participated, including respondent Amsel's attorney. As a result of the Pre-hearing conference, October 16, 1995 was selected as a date agreeable to the parties and arbitrators for the commencement of the hearing. The panel determined that any further delay of the proceedings would be unfairly prejudicial to the claimant.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Greenway Capital Corporation and Mayer Amsel be and hereby are jointly and severally liable and shall pay to the claimant the sum of \$54,250.00, plus interest at the statutory rate from August 5, 1994 until October 16, 1995.
2. Claimant's claim for punitive damages be and hereby is denied.
3. Each party shall bear their respective costs, including attorneys' fees, except that respondents be and hereby are jointly and severally liable and shall reimburse claimant the sum of \$650.00 representing filing fees previously deposited by the claimant with the NASD.
4. All other claims be and hereby are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

First Postponement	=	\$ 500.00
Second Postponement	=	\$1000.00

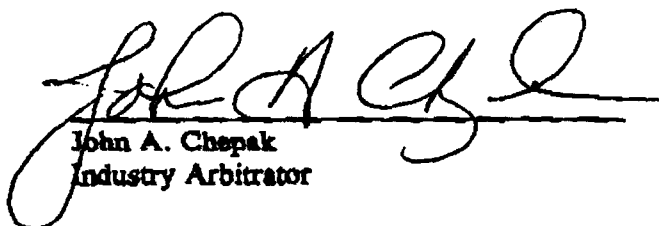
2 pre-hearing conferences x \$300	=	\$ 600.00
2 hearing sessions x \$500	=	\$1000.00

Total Forum Fees = \$3100.00 - \$500 hearing session deposit = \$2,600.00

Respondents Greenway Capital Corporation and Mayer Amsel be and hereby are jointly and severally liable and shall pay to the NASD, Inc. the sum of \$2,600.00 representing forum fees assessed against these parties by the arbitration panel.

Concurring Arbitrators' Signatures:

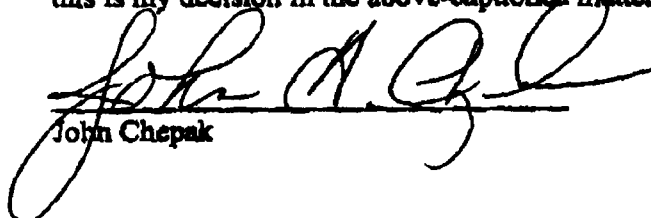
Philip M. Marshall
Public Arbitrator - Chairperson



John A. Chapak
Industry Arbitrator

Thomas E. Webb, Jr.
Public Arbitrator

I, John Chapak, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules that this is my decision in the above-captioned matter.



John Chapak

Date of Decision: January 30, 1996

2 pre-hearing conferences x \$300	=	\$ 600.00
2 hearing sessions x \$500	=	\$1000.00

Total Forum Fees = \$3100.00 - \$500 hearing session deposit = \$2,600.00

Respondents Greenway Capital Corporation and Mayer Amsel be and hereby are jointly and severally liable and shall pay to the NASD, Inc. the sum of \$2,600.00 representing forum fees assessed against these parties by the arbitration panel.

Concurring Arbitrators' Signatures




Philip M. Marshall
Public Arbitrator - Chairperson

John A. Chepak
Industry Arbitrator

Thomas E. Webb, Jr.
Public Arbitrator

I, Philip Marshall, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules that this is my decision in the above-captioned matter.


Philip Marshall

Date of Decision: January 30, 1996

2 pre-hearing conferences x \$300	=	\$ 600.00
2 hearing sessions x \$500	=	\$1000.00


Total Forum Fees = \$3100.00 - \$500 hearing session deposit = \$2,600.00

Respondents Greenway Capital Corporation and Mayer Amsel be and hereby are jointly and severally liable and shall pay to the NASD, Inc. the sum of \$2,600.00 representing forum fees assessed against these parties by the arbitration panel.

Consensus Arbitrators' Signatures:

Philip M. Marshall
Public Arbitrator - Chairperson

John A. Chepak
Industry Arbitrator


Thomas E. Webb, Jr.
Public Arbitrator

I, Thomas E. Webb, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules that this is my decision in the above-captioned matter.


Thomas E. Webb

Date of Decision: January 30, 1996